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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/025,518      | 12/19/2001  | David L. Gilmore     | OTD-030348-US       | 6324             |

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EXAMINER

MILLER, WILLIAM L

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3677

DATE MAILED: 03/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/025,518

Applicant(s)

GILMORE, DAVID L.

Examiner

William L. Miller

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-18 is/are allowed.
- 6) ☒ Claim(s) 1,2,8,12,19 and 20 is/are rejected.
- 7) ☒ Claim(s) 3-7,9-11,13 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Objections*

1. Claims 3 and 4 are objected to because of the following informalities: line 2 - delete "forming". Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by the admitted prior art (APA).
4. According to the applicant, the lower half of Fig. 1 including seal assembly K represents admitted prior art (APA). The APA discloses a seal assembly for a telescoping joint comprising: first 24 and second (not shown) nested tubular members slidably mounted with respect to each other and defining an annular space therebetween; at least one seal 10 formed of nitrile supported by one of the tubular members and sealingly spanning the annular space, the seal having a longitudinal axis and opposed ends and being compressed, upon assembly to the tubular member retaining it, in a direction substantially aligned with its longitudinal axis.
5. Claims 1, 2, 8, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Heinze (US#4793621).

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6. Heinze discloses a seal assembly for a telescoping joint comprising: first and second nested tubular members 1,2 slidably mounted with respect to each other and defining an annular space therebetween; at least one seal 12 supported by tubular member 2 and sealingly spanning the annular space, the seal having a longitudinal axis and opposed ends and being compressed, upon assembly to the tubular member retaining via ring 14, in a direction substantially aligned with its longitudinal axis. The seal compression being due to an interference fit in tubular member 2, namely via one seal end having a projection 12b received in recess 2c of tubular member 2.

*Claim Rejections - 35 USC § 103*

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heinze in view of the APA.

9. Heinze fails to disclose the seal being formed of nitrile as claimed by the applicant. However, as discussed previously, the APA discloses a similar seal assembly wherein the seal is formed of nitrile. Therefore, as supported by the APA, it would have been an obvious matter of design choice to modify Heinze by utilizing a nitrile seal as the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art.

In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

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*Allowable Subject Matter*

10. Claims 3-7, 9-11, 13, and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 15-18 are allowed.

*Conclusion*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Miller whose telephone number is 703 305 3978. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703 306 4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872 9326 for regular communications and 703 872 9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1113.

William L. Miller  
Primary Examiner  
Art Unit 3677



wlm  
March 19, 2003